

# HOUSE BILL No. 1597

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-42-4-9.

**Synopsis:** Sexual misconduct with a minor. Removes the defense to the crime of sexual misconduct with a minor that the accused person reasonably believed that the child was at least 16 years of age at the time of the conduct.

**Effective:** July 1, 2015.

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**Lawson L, McNamara**

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January 20, 2015, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## HOUSE BILL No. 1597

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A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 35-42-4-9, AS AMENDED BY P.L.158-2013,  
2       SECTION 445, IS AMENDED TO READ AS FOLLOWS  
3       [EFFECTIVE JULY 1, 2015]: Sec. 9. (a) A person at least eighteen  
4       (18) years of age who, with a child at least fourteen (14) years of age  
5       but less than sixteen (16) years of age, performs or submits to sexual  
6       intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5)  
7       commits sexual misconduct with a minor, a Level 5 felony. However,  
8       the offense is:  
9       (1) a Level 4 felony if it is committed by a person at least  
10      twenty-one (21) years of age; and  
11      (2) a Level 1 felony if it is committed by using or threatening the  
12      use of deadly force, if it is committed while armed with a deadly  
13      weapon, if it results in serious bodily injury, or if the commission  
14      of the offense is facilitated by furnishing the victim, without the  
15      victim's knowledge, with a drug (as defined in IC 16-42-19-2(1))



or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(b) A person at least eighteen (18) years of age who, with a child at least fourteen (14) years of age but less than sixteen (16) years of age, performs or submits to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits sexual misconduct with a minor, a Level 6 felony. However, the offense is:

(1) a Level 5 felony if it is committed by a person at least twenty-one (21) years of age; and

(2) a Level 2 felony if it is committed by using or threatening the use of deadly force, while armed with a deadly weapon, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

~~(c) It is a defense that the accused person reasonably believed that the child was at least sixteen (16) years of age at the time of the conduct. However, this subsection does not apply to an offense described in subsection (a)(2) or (b)(2).~~

~~(d)~~ (c) It is a defense that the child is or has ever been married. However, this subsection does not apply to an offense described in subsection (a)(2) or (b)(2).

(e) ~~(d)~~ It is a defense to a prosecution under this section if all the following apply:

(1) The person is not more than four (4) years older than the victim.

(2) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.

(3) The crime:

(A) was not committed by a person who is at least twenty-one (21) years of age;

(B) was not committed by using or threatening the use of deadly force;

(C) was not committed while armed with a deadly weapon;

(D) did not result in serious bodily injury;

(E) was not facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in



1 IC 16-42-19-2(1)) or a controlled substance (as defined in  
2 IC 35-48-1-9) or knowing that the victim was furnished with  
3 the drug or controlled substance without the victim's  
4 knowledge; and  
5 (F) was not committed by a person having a position of  
6 authority or substantial influence over the victim.  
7 (4) The person has not committed another sex offense (as defined  
8 in IC 11-8-8-5.2) (including a delinquent act that would be a sex  
9 offense if committed by an adult) against any other person.

